

AN ORDINANCE OF THE BOROUGH OF CLYMER, COUNTY OF INDIANA, COMMONWEALTH OF PENNSYLVANIA CONCERNING UTILIZATION OF FIRE INSURANCE PROCEEDS AS SECURITY FOR REMOVING, REPAIRING AND SECURING DAMAGED BUILDINGS PURSUANT TO ACT 98 OF 1992.

Be it ordained and enacted and it is hereby ordained and enacted by the Borough Council of the Borough of Clymer, Indiana County, Pennsylvania as follows:

SECTION I. The Borough Secretary shall be designated as the officer who is authorized to carry out all responsibilities and duties pursuant to this Ordinance.

SECTION II. No insurance company, association or exchange (hereinafter the Insuring Agent) doing business in the Commonwealth of Pennsylvania shall pay a claim of a named insured for fire damage to a structure located within the Borough of Clymer (hereinafter the Municipality) where the amount recoverable for the fire loss to the structure under all policies exceeds Five Thousand Dollars (\$5,000.00), unless the named insured or Insuring Agent is furnished by the municipal treasurer with a municipal certificate pursuant to Section 508(B) of Act 98 of 1992 and unless there is compliance with Section 508(C) and (D) of Act 98 of 1992 and the provisions of this Ordinance.

Where pursuant to Section 508(B)(1)(1) of Act 98 of 1992, the municipal treasurer issues a certificate indicating that there are no delinquent taxes, assessments, penalties or user charges against real property, the Insuring Agent shall pay the claim of the named insured, provided however, that if the loss is agreed upon by the named insured and the Insuring Agent equals or exceeds 60 percent of the aggregate limits of liability on all fire policies covering the building restructure, the following procedures must be followed:

(1) The Insuring Agent shall transfer from the insurance proceeds to the designated officer of the Municipality in the aggregate of \$1,000.00 for each \$20,000.00 of a claim and for each fraction of that amount of a claim, this section to be applied such that if the claim is \$20,000.00 or less, the amount transferred to the Municipality shall be \$1,000.00; or

(2) If at the time of a proof of loss agreed to between the named insured and the Insuring Agent, the named insured has submitted a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure, the Insuring Agent shall transfer to the Municipality from the insurance proceeds the amount specified in the estimate.

(3) The transfer of proceeds shall be on pro rata basis by all companies, associations or exchanges insuring the building or other structure.

(4) After the transfer, the named insured may submit a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure, and the designated officer shall return the amount of the funds transferred to the Municipality in excess of the estimate to the named insured, if the Municipality has not commenced to remove, repair or secure the building or other structure.

(5) Upon receipt of proceeds under this section, the Municipality shall do the following:

(a) The designated officer shall place the proceeds in the separate fund to be used solely as security against the total costs of removing, repairing, or securing the building or structure which are incurred by the Municipality. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the municipality in connection with such removal, repair or securing of the building or any proceedings related thereto; and

(b) It is the obligation of the Insuring Agent when transferring the proceeds to provide the Municipality with the name and address of the named insured. Upon receipt of the transferred funds and the name and address of the named insured, the designated officer shall contact the named insured, certify that the proceeds have been received by the Municipality and contact the named insured, certify that the proceeds have been received by the Municipality and notify the named insured that the procedures under this subsection shall be followed; and

(c) When repairs, removal or securing of the building or other structure have been completed in accordance with all applicable regulations and orders of the Municipality and the required proof of such completion received by the designated officer, and if the Municipality has not incurred any costs for repairs, removal or securing, the fund shall be returned to the named insured. If the Municipality has incurred costs for repairs, removal or securing of the building or other structure, the cost shall be paid from the fund and if excess funds remain, the Municipality shall transfer the remaining funds to the named insured; and

(d) To the extent that interest is earned on proceeds held by the Municipality pursuant to this Section, and not returned to the named insured, such interest earned on such proceeds shall be distributed to the named insured at the time that the proceeds are returned.

(6) Nothing in this section shall be construed to limit the ability of the Municipality to recover any deficiency. Furthermore, nothing in this subsection shall be construed to prohibit the Municipality and the named insured from entering into an agreement that permits the transfer of funds to the named insured of some other reasonable disposition of the damaged property has been negotiated.

SECTION III. The Borough of Clymer may by resolution adopt procedures and regulations to implement Act 98 of 1992 and this Ordinance and may by resolution fix reasonable fees to be charged for municipal activities of certificates and bills, performance of inspections and opening separate fund accounts.

SECTION IV. An owner of property, and named insured or any Insuring Agent who violates this Ordinance shall be subject to a penalty of up to \$1,000.00 per violation.

SECTION V. The provisions of the Ordinance shall be severable and, if any of the provisions hereof shall be invalid or unenforceable, the remaining provisions of this Ordinance shall remain in effect.

SECTION VI. This Ordinance shall become effective immediately.

ORDAINED AND ENACTED THIS 1st DAY OF March 1993.

ATTEST

THE BOROUGH OF CLYMER

Connel L. Custer  
Secretary

Randy J. Deem  
President of Council

Joseph E. Kadlick  
Mayor

APPROVED THIS 1st DAY OF March 1993.